

CHAPTER NO. 336

SENATE BILL NO. 1761

By Kurita, Rochelle

Substituted for: House Bill No. 1765

By McMillan

AN ACT To amend Tennessee Code Annotated, Title 62, relative to body piercing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 38, Part 3, is amended by deleting the part in its entirety effective January 1, 2002, and by substituting instead Sections 2 through 11 of this act as a new Part 3.

SECTION 2. As used in this part:

(1) "Antibacterial" means a substance which inhibits and reduces the growth of bacteria.

(2) "Approval" means written approval from the Department of Health indicating that the body piercing establishment has been inspected and meets all terms of this part and the applicable rules.

(3) "Body piercing" means the piercing of any part of the body for compensation by someone, other than a physician licensed under Title 63 who, utilizes a needle or other instrument for the purpose of inserting an object into the body for non-medical purposes; body piercing includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun.

(4) "Body piercing establishment" means any place whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed including any area under the control of the operator.

(5) "Body piercing establishment permit" or "permit" means the issuance of a written permit by the department to a body piercing establishment stating that such establishment, after inspection, was found to be in compliance with this part.

(6) "Body piercing operator" or "operator" means a person who controls, operates, conducts, or manages a body piercing establishment, whether or not the operator is actually engaging in body piercing.

(7) "Body piercing service or body piercing procedure" means the service performed or the procedure utilized for body piercing.

(8) "Body piercing technician" or "technician" means a person at least eighteen (18) years of age who engages in the practice or service of body piercing, regardless of the type of body ornament utilized or the body area to be pierced.

(9) "Body piercing technician license" means the issuance of a state license authorizing the person named therein to engage in the practice or service of body piercing after fulfilling the requirements of this part.

(10) "Business" means any entity that provides body piercing services or procedures for compensation.

(11) "Commissioner" means the Commissioner of Health, or the designee of the commissioner.

(12) "Department" means the Department of Health.

(13) "Disinfecting" means a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.

(14) "License" means the issuance of a license to perform body piercing to an individual, partnership, firm, association, or corporation.

(15) "Minor" means an individual under the age of eighteen (18).

(16) "Patron" means a person requesting and receiving body piercing services.

(17) "Premises" means the physical location of an establishment which offers and performs body piercing services.

(18) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid.

(19) "Sterilization" means holding in an autoclave for fifteen (15) minutes at fifteen (15) pounds of pressure and at a temperature of two hundred and fifty (250) degrees Fahrenheit or one hundred and twenty-one (121) degrees Celsius.

(20) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed.

(21) "Universal precautions" means that all blood and body fluids are treated so as to contain all blood borne pathogens and taking proper precautions to prevent the spread of any blood borne pathogens.

SECTION 3. No person shall perform a body piercing procedure without a license and in a manner that does not meet the standards for appropriate disinfecting and sterilization of invasive equipment used in performing the procedures established by this part and the rules adopted pursuant to this part.

SECTION 4. (a) To receive approval to offer body piercing services, a business must obtain a permit and demonstrate to the commissioner the ability to meet the requirements established by this part and the rules adopted pursuant to this part for safe performance of the body piercing procedures, training of the individuals who perform the procedures, and maintenance of the required records.

(b) No person shall operate a business that offers body piercing services unless the commissioner has approved the business pursuant to this part. No

person shall perform a body piercing procedure in a way that does not meet the safety and sanitation standards established pursuant to this part.

SECTION 5. The commissioner shall conduct at least one (1) inspection of a business prior to issuing a permit under this part for a business to offer and perform body piercing services. The commissioner may conduct additional inspections as necessary for the approval process relative to each business. The commissioner may inspect an approved business at any time the commissioner deems necessary. In an inspection, the commissioner shall be given access to the business' premises and to all records deemed relevant by the commissioner for the inspection.

SECTION 6. (a) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age unless written consent has been given by the individual's parent, legal guardian, or legal custodian in accordance with subsection (b) of this section. However, the provisions of this subsection shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.

(b) A parent, legal guardian, or legal custodian of an individual under age eighteen (18) who desires to give consent to a business for performance of a body piercing procedure on the individual under the age of eighteen (18) shall do all of the following:

(1) Appear in person at the business at the time the procedure is performed;

(2) Sign a document provided by the business that explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure;

(3) Produce proof of age;

(4) Sign a statement that the individual is the minor's parent, legal guardian, or legal custodian; and

(5) Sign a statement as specified by rule stating in writing that the individual consents to the procedure being performed on the minor and that the individual providing consent is in fact the parent, legal guardian, or legal custodian of the minor. Such statement shall include the following declarations and disclosures:

(A) The undersigned is fully aware that to falsify legal standing as to parentage or being the legal guardian or legal custodian is a Class C misdemeanor; and

(B) Pursuant to Section 40-35-111, a Class C misdemeanor means imprisonment for a period of not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both.

(c) Records of body piercing procedures performed on minors shall be maintained by the operator for two (2) years. A copy of all paperwork on a minor shall be forwarded to the department within thirty (30) business days following the performance of the body piercing procedure, and the department shall retain

such paperwork for two (2) years. Such paperwork shall include, but not be limited to:

(1) The signed document that explains the manner in which the procedure will be performed and the methods for proper care;

(2) A copy of the proof of age;

(3) The statement in writing that the individual is the minor's parent, legal guardian, or legal custodian; and

(4) The signed statement that provides consent to perform a body piercing procedure on a minor which stipulates that such individual understands the consequences for falsifying such individual's legal standing as to parentage or being the legal guardian or legal custodian.

SECTION 7. (a) (1) Unless consent has been given in accordance with SECTION 6, no individual who is under age eighteen (18) shall obtain or attempt to obtain a body piercing procedure.

(2) No individual shall knowingly show or give false information concerning the individual's name, age or emancipation.

(b)(1) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing procedure.

(2) No individual shall impersonate the parent, legal guardian, or legal custodian of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing procedure.

(3) The operator shall require proof of age for any patron under the age of twenty-seven (27) and the operator shall retain a copy of the patron's proof of age documentation in the files of the business for a period of two (2) years from the time of the body piercing.

(c) It is a Class C misdemeanor for a violation of Section 7(b)(2) by an individual over the age of seventeen (17) who impersonates a parent, legal guardian, or legal custodian.

SECTION 8. Each operator of a business that offers body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the technicians who perform body piercing procedures are adequately trained to perform the procedures properly;

(2) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases;

(3) Require the technicians who perform body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures; and

(4) Ensure that weekly tests of the business's heat sterilization devices are performed that indicate whether the devices are killing microorganisms. The operator shall maintain documentation that the weekly tests are being performed, as well as the results of each test.

SECTION 9. (a) Not later than ninety (90) days after the effective date of this act, the commissioner shall promulgate public necessity rules in accordance with Tennessee Code Annotated, Title 4, Chapter 5, for the implementation and enforcement of the provisions of this part. The rules shall include, at a minimum all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of body piercing procedures, including a requirement that the operator provide to each patron printed instructions on the care of the skin after body piercing and requiring a copy of such instructions to be posted in a conspicuous place in the body piercing establishment;

(2) Standards and procedures to be followed for appropriate disinfecting and sterilization of all invasive equipment or parts of equipment used in body piercing procedures; and

(3) Procedures for suspending and revoking licenses and permits pertaining to body piercing.

(b) The rules promulgated pursuant to this part shall establish universal blood and body fluid precautions to be used by any technician who performs body piercing procedures.

(c) The rules promulgated pursuant to this part may include standards and procedures to be followed by a business that offers body piercing services to ensure that the technicians who perform body piercing procedures for the business are adequately trained to perform the procedures properly.

(d) The rules promulgated pursuant to this part shall establish fees for issuing licenses and permits, as well as penalties for late payment. Such fees shall be sufficient to cover one hundred percent (100%) of the department's cost of the program.

SECTION 10. (a) No person shall operate a business offering body piercing services without first obtaining approval of the commissioner.

(b) Persons seeking approval to operate a business offering body piercing services shall apply to the commissioner on forms provided by the department. An applicant shall submit all applicable fees and information required by the department for processing the application. Information required by the department shall include, but not be limited to, the following:

(1) If the operator is an individual, the operator's name, personal address, personal telephone number, business address, business telephone number, and the operator's occupation;

(2) A statement attesting that the operator intends to comply with all requirements of this part and the rules promulgated pursuant thereto;

(3) Plans and specifications of the place of business to clearly show that applicable provisions of the rules promulgated pursuant to this part are met, such plans and specifications to include, but not be limited to, the following:

- (A) The total area to be used for the business;
- (B) All entrances and exits;
- (C) Number, location and types of plumbing fixtures, including all water supply facilities;
- (D) A lighting plan;
- (E) A floor plan showing the general layout of fixtures, equipment; and body piercing stations; and
- (F) A listing of all equipment to be used for body piercing procedures;

(4) Evidence that the operator shall perform the following functions:

(A) The operator shall maintain procedures ensuring that all technicians performing body piercing on the business premises have received appropriate training in body piercing;

(B) The operator shall maintain procedures ensuring that all technicians performing body piercing services for the business shall have received training, as evidenced by records of completion of courses or seminars provided by licensed physicians, registered nurses, organizations such as the American Red Cross, accredited learning institutions, appropriate governmental entities, or other authorities recognized by the commissioner as being qualified to provide training in the following categories:

- (i) First aid;
- (ii) Safety and sanitation requirements for preventing transmission of infectious diseases;
- (iii) Universal precautions against blood borne pathogens;
- (iv) Appropriate piercing aftercare; and
- (v) Any other training deemed appropriate by the commissioner.

(C) The operator shall maintain written records of equipment utilized by the business, including manufacturers, model numbers, and dates of acquisition or purchase;

(D) The operator shall maintain procedures ensuring that technicians performing body piercing services on the business

premises shall disinfect and sterilize all non-disposable equipment or parts of equipment used in performing procedures, as well as properly dispose of disposable items used in the procedures;

(E) The operator shall maintain procedures ensuring the performance of weekly biological monitoring tests of the business's heat sterilization devices to include the following:

(i) Maintenance of a log of all tests performed, the date of each test and the name of the person or independent testing entity performing the test;

(ii) Procedures for remedial action on the part of the operator to assure compliance with all sterilization requirements in the event a test indicates a heat sterilization device is not functioning properly; and

(iii) Any other such tests deemed appropriate by the commissioner;

(F) The operator shall maintain records of each test performed and the results of each test for at least two (2) years and shall make such test records available to the commissioner upon request during normal business hours;

(G) The operator shall maintain procedures ensuring the general health and safety of all individuals employed by the business;

(5) The operator shall identify any previous, current or similar approvals held by the operator for body piercing services in Tennessee or any other state;

(6) The operator shall provide evidence and documentation of all applicable fee payments, inspections and approvals;

(7) The operator shall make inquiry with each patron as to whether the patron is under the influence of drugs or alcohol; and the patron must state in writing that he or she is not under the influence of drugs or alcohol before any body piercing procedure may be performed.

(c) The commissioner shall conduct at least one (1) inspection of a business prior to approving it and before a permit is issued. The commissioner may conduct additional inspections as deemed necessary for approval purposes.

(d) Licenses and permits shall be valid for up to one (1) year; however, all licenses and permits shall expire on December 31 following the date of issuance.

(e) The operator shall give the commissioner access to the business premises and to all records required by this part which are deemed relevant by the commissioner for the purpose of making an inspection. All records shall be entered in ink or other permanent form and shall be made available to the commissioner upon request at any time during normal business hours of operation.

(f) A permit is not transferable. Any permanent change in location or change in ownership to any degree shall necessitate the operator's applying for a new permit with payment of all fees established by the commissioner.

(g) The department shall approve any such business for the purposes of operating on a time-limited basis in conjunction with a specific event. Time-limited body piercing establishments may be permitted at such events as fairs, and other time-limited gatherings, if the commissioner determines that the body piercing operator meets the provisions contained in this part and the rules promulgated by the department. For the purpose of such approval, the following shall occur:

(1) A permitted body piercing establishment may set up temporary locations, including but not limited to, body piercing conventions, at a place other than a body piercing establishment only with the approval of the commissioner for a period not to exceed ten (10) days; provided that each technician not previously licensed with the Tennessee Department of Health shall obtain a license prior to performing body piercing at a temporary location;

(2) Temporary facilities shall be held to the same sanitary standards as those required of body piercing establishments;

(3) Temporary facility permits shall be issued by the commissioner and shall not be transferable or renewable;

(4) A temporary body piercing technician license shall not be issued for more than fourteen (14) days. The operator of the related establishment shall also sign for the temporary license from the department, and all body piercing shall be under the auspices of the body piercing establishment operator and shall be in compliance with the provisions of this part. Technicians may perform body piercing if a copy of the temporary permit and the temporary technician license are on display at the temporary site. The sterilization course, written examination, and work experience requirements may be waived by the commissioner for a temporary license;

(5) The applicant or operator shall submit all applicable fees and information the department determines necessary to process the application. The department shall take into consideration the department's costs associated with carrying out the provisions of this subsection when determining the appropriate fee.

(h) The permit of a business may be renewed annually by the department. Renewal shall occur following an annual inspection, assurance that all conditions set forth in this part, as well as the rules, are met, and the payment of all fees set by the commissioner has been received.

SECTION 11. A violation of this part by an operator or a technician is a Class B misdemeanor.

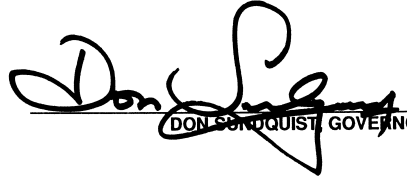
SECTION 12. This act shall take effect on becoming a law for rulemaking purposes and on January 1, 2002, for all other purposes, the public welfare requiring it.

PASSED: May 23, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of June 2001


DON SUNDQUIST, GOVERNOR